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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/666,483

09/19/2003

Marcia L. Stockton

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7590

05/20/2005

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EXAMINER

LEE, DIANE I

ART UNIT

PAPER NUMBER

2876

DATE MAILED: 05/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/666,483	Applicant(s) STOCKTON, MARCIA L.	
	Examiner D. I. Lee	Art Unit 2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9/19/03, 4/11/05</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

1. Claims 1-21 are presented for examination.

Claim Objections

2. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claim 7 (the second occurrence) through claim 19 including the duplicate claims of claim 9 (the first and the second occurrences) have been renumbered as claims 8-21.

3. Claims 7 and 10 are objected to under 37 CFR 1.75 as being a substantial duplicate of claims 8 and 11, respectively. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

4. Claims 1-20 are objected to because of the following informalities:

(a) Re claims 1-2: the claims reads "storing the customer identifier in an RFID tag affixed to each of one or more items presented for purchase in a current transaction" and further in claim 2, lines 1-2 reads "wherein the customer identifier is read from an RFID tag affixed to the customer loyalty card". It is unclear as to whether the applicant is referring to the same RFID tag or two separate RFID tags. Since it appears to be two different RFID tags, the

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Examiner suggests the applicant to change "an RFID tag" in claim 1, line 4 to --first RFID tag-- and change "an RFID tag" in claim 2, lines 1-2 to --second RFID tag--;

(b) Re claim 3, line 3: "an RFID tag" should be changed to --said second RFID tag--;

(c) Re claim 3, lines 2-3: It appears that some wordings in the claim, such as "shopper" and "customer" are used interchangeably. The wording in the claim should not be used interchangeably. Applicant's cooperation is requested in reviewing and correcting the claims to place the claims in better form.

(d) Re claim 7, line 3: "the receipt" should be changed to --a receipt--; and

(e) Re claim 7, line 3: "the searching" should be changed to --searching--.

Appropriate correction is required.

5. Due to the numerous claim objections as set forth above, the Applicant's cooperation is requested in reviewing and correcting the claims to place the claims in better form.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. **Claims 3-4, 10-12, and 17-18 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01.**

The omitted steps are: prior to the step of concluding whether or not customer identifier is presented in the RFID tag affixed each item (i.e., the second RFID tag), some processing step (e.g., reading or retrieving the stored customer identifier from the RFID tag affixed to each item, i.e., the first RFID tag, by an RFID tag reader) is required in order to execute the concluding step.

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Appropriate correction and clarification are required.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. **Claims 1-2, 8-9, 15-16, and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Bridgelall et al. [US 6,415,982 B2-referred as Bridgelall].**

Re claims 1-2, 8-9, 15-16, and 21: Bridgelall discloses a system and a method of preparing information usable in theft detection using radio frequency identification (RFID) technology, comprising:

an RF identification (ID) tag 88 affixed to each of one or more items (a shopping tote 86) presented for purchase in a current transaction and wherein the RFID tag 88 contains a purchase information that identifies the shopper or customer (see col. 6, lines 15+), which inherently teaches that the system of Bridgelall includes a means (not specifically shown) for storing the customer identifier in the RFID tag 88 affixed to each of one or more items (the shopping tote 86) presented for purchase in a current transaction prior to placing the shopping tote 86 on a counter 87;

means (an RFID reader 212, for example, having a processing software therein for executing instruction) for reading a customer identifier (identify the shopper or customer) from the customer loyalty card (i.e., the customer loyalty card is defined as a card 240 having a customer's information, such as a credit, debit, or identification information);

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wherein the card 240 having resonant elements in connection with RF readers, which clearly teaches that an RFID tag affixed to the customer loyalty card (see col. 11, lines 63+).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. **Claims 3-7, 10-14, and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bridgelall in view of Otto [US 6,554,187-cited by the Applicant].** The teachings of Bridgelall have been discussed above.

Re claims 3-6, 10-14, and 17-20: Although Bridgelall teaches that the RFID tag (i.e., RFID tag affixed to each item presented for purchase) contains purchase information that identifies the shopper or customer; Bridgelall does not disclose the system comprising a means for concluding that at least some of one or more items possessed by a shopper were not paid if the customer identifier (i.e., purchase information) is not presented in an RFID tag affixed to the item.

Otto discloses a method and a system 10 for detecting and managing RFID tag (RFID label 12 on items brought into a store by the customer, and wherein managing RFID tag includes a means for concluding that at least some of one or more items possessed by a shopper were not paid (stolen) if the purchase information is not presented in an RFID tag affixed to the item (see co. 1, lines 43+ and col. 2, lines 42+).

It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate the teaching of identifying a stolen item brought into the store

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by a customer, as taught by Otto, into the teachings of Bridgelall in order to identify the stolen item brought into the store by the customer and to alert the store security personnel to tack the person accordingly. Such modification would have provided a system that accurately distinguished the stolen item that are brought into the store, thus, provide the greater improvement in managing the labeled item in the store.

Re claim 7: Bridgelall does not disclose the step of remembering each item that was in the shopper's possession when the shopper entered an establishment in which a transaction represented by the receipt was conducted, and wherein the searching and concluding steps do not apply to the remembered items.

Otto teaches managing RFID labels on items brought into a store by a customer (i.e., when the customer enters an establishment in which a transaction represented by the receipt was conducted) and identify the item as being potentially stolen if the RFID label does not contain purchase information, which obviously requires the step of remembering each item that was in the shopper's possession when the shopper entered an establishment in which a transaction represented by the receipt was conducted. Wherein the system interrogate the RFID label on item in the store, and comparing RFID label information in the RFID label (item in the shopper's possession when the shopper entered the establishment) with the store RFID label information (i.e., searching the store RFID label information that do not apply to the remember items) to determine whether the RFID label is from another store different than the one store (i.e., concluding the store RFID label information that do not apply to the remember items).

It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate the specific steps of searching and concluding that do not apply to the remembered items that are in the shopper's possession in the teaching of Bridgelall in order to accurately distinguished the stolen item that are brought into the store when the

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shopper entered the establishment and to accurately alert the store security personnel to tack the person accordingly. Such modification would have provided the greater improvement in managing the labeled item in the store.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Aupperle et al. [US 2005/0001719 A1] discloses an object of matching method, system having RFID tag storing data that corresponds to an object;

Chung [US 6,883,710] discloses an RFID tag having an electronic memory for transmit/receive information for tracking purpose.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. I. Lee whose telephone number is (571) 272-2399. The examiner can normally be reached on Monday through Thursday from 5:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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A handwritten signature in black ink, appearing to read 'D. I. Lee', with a stylized, cursive script.

D. I. Lee
Primary Examiner
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